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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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NOTICE OF APPEAL FROM THE EXAMINER
TO THE BOARD OF APPEALS

Appellant(s): Le May, et al.
Serial No.: 10/601,771
Filed: June 20, 2003
For: TAPERED TAMPON APPLICATOR
Examiner: Laura C. Hill
Art Unit: 3761
Confirmation No.: 7298
Customer No.: 27623 Attorney Docket: 460.2174USU

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Respectfully submitted,

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November 17, 2006

Date

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APPEAL BRIEF

Dear Sir:

This Appeal Brief is filed under 35 U.S.C. § 134, and in accordance with the provisions of 37 C.F.R. § 41.37(c). The claims on appeal are set forth in Claims Appendix.

I. INTRODUCTION

This appeal is made from the final Office Action (hereinafter "Final Action") mailed April 20, 2006 and Notice of Panel Decision mailed October 17, 2006.

I(i). REAL PARTY IN INTEREST

The owner of this application is Playtex Products, Inc.

II. RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to Appellants, Appellants' Attorney or the owner/assignee of the application (Playtex Products, Inc.), which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1 through 6 and 8 through 73 are subject to appeal.

Claims 1 through 6, 8 through 10, 13 through 22, 32 through 61, 63, 64, and 66 through 73 stand finally rejected under 35 U.S.C. §103(a) as being obvious over U.S.

Patent Application Publication No. 2001/0056253 to Suga (hereinafter "Suga") in view of U.S. Patent No. 3,895,634 to Berger et al. (hereinafter "Berger").

Claims 11, 12, 23 through 31, 62, and 65 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Suga in view of Berger as applied to claim 1, and in further view of U.S. Patent No. 3,765,416 to Werner et al. (hereinafter "Werner").

IV. STATUS OF AMENDMENTS

There were no amendments made in response to the Final Action. The arguments on appeal are based upon the pending claims as set forth in the Claims Appendix.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 provides the subject matter of a tampon applicator comprising a barrel, referred to in the application by reference numeral 22, the barrel having a tapered insertion tip, referred to in the application by reference numeral 24, with a plurality of petals, referred to in the application by reference numeral 44. (page 5, line 23 and page 8, lines 22-23). The insertion tip has a taper ratio greater than 1 to about 8. (page 6, lines 1-5). The taper ratio is a length of a projection of the insertion tip taper along a longitudinal axis of the barrel, referred to in the application by BD, to a length of a projection of the insertion tip taper along a radius of the barrel at a base

region of the plurality of petals, referred to in the application by CD. (page 6, lines 1-5). The plurality of petals each have a thickness of about 0.004 inches to about 0.022 inches. (page 10, lines 1-3). The plurality of petals have a substantially uniform thickness. (page 9, line 17).

Independent claim 37 provides the subject matter of a tampon applicator that includes a barrel, referred to in the application by reference numeral 22, with a tapered insertion tip, referred to in the application by reference numeral 24. (page 5, line 23 and page 8, lines 22-23). The tapered insertion tip has a taper ratio represented by a ratio of a length of a projection of the insertion tip taper along a longitudinal axis of the barrel, referred to in the application by BD, to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of one or more petals, referred to in the application by CD, of greater than 1 to about 8. (page 6, lines 1-5). The barrel is formed from a material selected from the group consisting of cardboard, cardboard laminate, paper, paper laminate, pulp slurry, paper slurry, biopolymer, pulp-molded paper, and any combinations thereof. (page 14, lines 1-5).

Independent claim 72 provides the subject matter of a tampon applicator including a tapered barrel, referred to in the application by reference numeral 42, and an insertion tip, referred to in the application by reference numeral 24. (page 7, lines 8-9). The tapered barrel has a taper ratio of about 1.2 to about 8. (page 7, lines 13-16). The taper ratio is a ratio of a largest radius of the tapered barrel, referred to in the application by XY, to a radius of the tapered barrel at a base region of the insertion tip,

referred to in the application by CD. (page 7, lines 13-15).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1 through 6, 8 through 10, 13 through 22, 32 through 61, 63, 64, and 66 through 73 are unpatentable under 35 U.S.C. § 103(a) by U.S. Patent Application Publication No. 2001/0056253 to Suga (hereinafter "Suga") in view of U.S. Patent No. 3,895,634 to Berger et al. (hereinafter "Berger"). Whether claims 11, 12, 23 through 31, 62, and 65 are unpatentable under 35 U.S.C. § 103(a) over Suga in view of Berger as applied to claim 1, and in further view of U.S. Patent No. 3,765,416 to Werner et al. (hereinafter "Werner").

VII. ARGUMENT

(i) Rejections under 35 U.S.C. §112, first paragraph

The Final Action does not reject any of the claims under 35 U.S.C. §112, first paragraph.

(ii) Rejections under 35 U.S.C. §112, second paragraph

The Final Action does not reject any of the claims under 35 U.S.C. §112, second paragraph.

(iii) Rejections under 35 U.S.C. §102

The Final Action does not reject any of the claims under 35 U.S.C. §102.

(iv) Rejections under 35 U.S.C. §103

(a) Rejection of claims 1 through 6, 8 through 10, 13 through 22, 32 through 61, 63, 64, and 66 through 73 as unpatentable over Suga in view of Berger

(1) Independent claims 1 and 37

The Final Action rejects claims 1 through 6, 8 through 10, 13 through 22, 32 through 61, 63, 64, and 66 through 73 under 35 U.S.C. §103 as being unpatentable over Suga in view of Berger. (Final Action p. 4). For at least the reasons set forth below, Suga and Berger, alone or in combination, fail to disclose or suggest the features that the "insertion tip has a taper ratio greater than 1 to about 8, wherein the taper ratio

is a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of the plurality of petals” of claim 1 or that the “tapered insertion tip has a taper ratio represented by a ratio of a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of one or more petals of greater than 1 to about 8” of claim 37. Claims 1 and 37 are argued together.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Applicants respectfully submit that Suga, taken alone or in combination with Berger, fails to disclose or suggest all of the features of claims 1 and 37, and all claims dependent therefrom.

Nowhere in Suga is a tampon applicator having a tapered insertion tip remotely disclosed or suggested, let alone one with a taper ratio greater than 1 to about 8, as recited in claims 1 and 37. Figure 2 and page 6, lines 1 through 5 of the present application defines that "the taper ratio, represented by the ratio of the length of the taper projection along a longitudinal, centerline, or horizontal axis of the barrel BD to the projection length along a radius or vertical axis CD, is greater than 1 to about 8."

Suga fails to provide or suggest any dimensions related to the length of the taper projection along a longitudinal, centerline, or horizontal axis of the barrel BD to the projection length along a radius or vertical axis CD. This is not surprising since Suga does not disclose or suggest any tapered applicator. The Action attempts to overcome the fatal deficiency in Suga by annotating Figure 2 of Suga with what is perceived by the Action as the necessary disclosure to meet the claim limitations of the present Application. (Final Action p. 3). However, this annotation appears to completely disregard the fact that there is no support in Suga for such an annotation. Clearly, it is only through impermissible hindsight reconstruction based solely on the disclosure of the present application that enables the Action to attempt such an annotation of the Suga disclosure to arrive at the claimed invention. See MPEP § 2145 ("The requirement "at the time the invention was made" is to avoid impermissible hindsight.").

Furthermore, even if one were to incorrectly assume that there was support in Suga for the Action's annotations to the Suga disclosure, Applicants respectfully submit

that annotated Figure 2, and the related assertions based on annotated Figure 2 set forth in the Action, still fall short of disclosing or suggesting claims 1 and 37. Notably, the annotated 'Alternative projection length' appears to be arbitrarily located in relation to the tip of the applicator and the tip of the tampon (pledget). (Final Action p. 3). Length L of the applicator, length A of the pledget, outer diameter D of the applicator, and outer diameter B of the tampon, all fail to correspond to any of the dimension related to the length of the taper projection along a longitudinal, centerline, or horizontal axis of the barrel BD to the projection length along a radius or vertical axis CD set forth in the present invention, which form the basis for the claimed taper ratio.

Pages 4 and 5 of the Final Action asserts that Suga discloses a tampon applicator having a taper ratio of 3 to 4. The Action also asserts that the taper projection length is equal to a tapered tampon length identified by reference letter A that equals 20 to 60 mm. The Action further asserts that the taper ratio is equal to a tapered length A divided by a barrel radius identified by reference letter D that is equal to 8 to 20 mm. Applicants respectfully disagree.

Suga provides that "the insertion region 21 has a length corresponding to a full length A of the tampon 4". (paragraph 0011, lines 9-11). Further, as clearly shown in Figure 2, length A corresponds to the tampon or pledget identified by reference numeral 4. Thus, the length A is not a length of a projection of the insertion tip taper along a longitudinal axis of the barrel, as provided by claims 1 and 37. Rather, length A is the entire length of a tampon pledget that extends beyond an insertion tip of the Suga

barrel, as clearly shown in Figure 2.

Still further, Suga provides that “an outer diameter D of the outer cylindrical tube 2 may be appropriately dimensioned so far as the outer cylindrical tube 2 can be smoothly inserted into the vaginal canal, the outer diameter D is preferably dimensioned in a range of 8~20 mm.” (paragraph 0011, lines 15-19). Thus, a taper ratio that is equal to a tapered length A divided by a barrel radius identified by reference letter D of Suga, is not equal to a taper ratio that is a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of the one or more of petals, as provided in claims 1 and 37.

Yet further, Suga merely provides that diameter D is in a range between 8~20 mm. It does not disclose or suggest tapering of any kind. As clearly shown in Figures 1 and 2, the Suga cylindrical tube includes an insertion portion having a uniform diameter D and what appears to be a conventional rounded tip. Thus, Suga neither discloses nor suggests a tapered insertion tip, as recited by claims 1 and 37, let alone an insertion tip that has a taper ratio greater than 1 to about 8 in which the taper ratio is that set forth in claims 1 and 37.

Additionally, the Action acknowledges that Suga does not expressly disclose a petal thickness and relies on the disclosure of Berger to cure this deficiency. (Final Action p. 5). Applicants respectfully submit that Berger also fails to disclose or suggest

a tampon applicator having a tapered insertion tip according to claims 1 and 37. This is further evidenced by the concession on page 4 of the Action mailed November 16, 2005, stating that Berger does not expressly disclose a taper ratio. Therefore, Berger cannot cure any deficiency noted above with respect to Suga. Accordingly, despite the Action's reliance on Berger for certain disclosure, it remains that the combination of Suga and Berger fails to disclose or suggest a tampon applicator having a tapered insertion tip, as recited in claims 1 and 37.

Therefore, claims 1 and 37 are not disclosed or suggested by Suga and Berger, alone or in combination, and, thus, *prima facie* obviousness is not established.

(2) Independent claim 72

The Final Action rejects claims 1 through 6, 8 through 10, 13 through 22, 32 through 61, 63, 64, and 66 through 73 under 35 U.S.C. §103 as being unpatentable over Suga in view of Berger. (Final Action p. 4). Again, Suga and Berger, alone or in combination, fail to disclose or suggest the features of "a tapered barrel and an insertion tip, wherein said tapered barrel has a taper ratio of about 1.2 to about 8, wherein the taper ratio is a ratio of a largest radius of said tapered barrel to a radius of said tapered barrel at a base region of said insertion tip" of claim 72. Consistent with the above relating to claims 1 and 37, nowhere in Suga or Berger is a tampon applicator with a tapered barrel remotely disclosed or suggested.

As also noted above, the Action incorrectly characterizes Suga as disclosing a tampon applicator having a taper ratio of 3 to 4. As discussed above, the length A is not a length of a projection of the insertion tip taper along a longitudinal axis of the barrel, and length A is the entire length of a tampon pledget that extends beyond an insertion tip of the Suga barrel, as clearly shown in Figure 2. Also as discussed above, the Suga cylindrical tube includes an insertion portion having a uniform diameter D and what appears to be a conventional rounded tip. Therefore, Suga does not disclose or suggest a taper ratio, let alone a taper ratio of a ratio of a largest radius of the tapered barrel to a radius of the tapered barrel at a base region of the insertion tip or a taper ratio of about 1.2 to about 8.

Applicants respectfully submit that Berger fails to disclose or suggest a barrel taper ratio. On page 6, the Action dated November 16, 2005 concedes that Suga/Berger do not expressly disclose a barrel taper ratio. Therefore, Berger cannot cure any deficiency noted above with respect to Suga.

Accordingly, all the claim limitations of claim 72 are not taught or suggested by Suga and Berger, alone or in combination, and, thus, *prima facie* obviousness is not established.

(3) Dependent claims 11, 12, 23 through 31, 62, and 65

Concerning the rejection of dependent claims 11, 12, 23 through 31, 62, and 65 under 35 U.S.C. §103(a) as being unpatentable over Suga in view of Berger as applied to claim 1, and in further view of U.S. Patent No. 3,765,416 to Werner, Applicants respectfully submit that the rejection cannot be sustained in view of the Action's failure to establish a *prima facie* case of obviousness for independent claims 1 and 37 of the present application. Claims 11, 12, 23 through 31, 62, and 65 are argued together.

IX. CONCLUSION

In summary, Applicants respectfully request that the Board of Appeals reverses the final rejection of claims 1 through 6 and 8 through 73.

Dated: November 17, 2006



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CLAIMS APPENDIX

1. (Previously presented) A tampon applicator comprising a barrel, said barrel having a tapered insertion tip with a plurality of petals, wherein the insertion tip has a taper ratio greater than 1 to about 8,

wherein the taper ratio is a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of the plurality of petals, and

wherein said plurality of petals each have a thickness of about 0.004 inches to about 0.022 inches, and wherein said plurality of petals have a substantially uniform thickness.

2. (Original) The applicator of claim 1, wherein said taper ratio is about 1.3 to about 5.

3. (Original) The applicator of claim 1, wherein said taper ratio is about 1.4 to about 2.3.

4. (Original) The applicator of claim 1, wherein said taper ratio is about 1.45 to about 1.75.

5. (Original) The applicator of claim 1, wherein said plurality of petals each have a thickness of about 0.008 inches to about 0.018 inches.

6. (Original) The applicator of claim 1, wherein said plurality of petals each have a thickness of about 0.009 inches to about 0.013 inches.

7. (Cancelled)

8. (Original) The applicator of claim 7, wherein said substantially uniform thickness of each of said plurality of petals varies no more than about 25% across an entire area of said petals.

9. (Original) The applicator of claim 7, wherein said substantially uniform thickness of each of said plurality of petals varies no more than about 10% across an entire area of said petals.

10. (Original) The applicator of claim 7, wherein said substantially uniform thickness of each of said plurality of petals varies no more than about 2% across an entire area of said petals.

11. (Original) The applicator of claim 1, wherein said barrel has a barrel taper ratio represented by a ratio of a largest radius of the barrel to a radius of the barrel at a base of the insertion tip of about 1.2 to about 8.

12. (Original) The applicator of claim 11, wherein said barrel taper ratio is about 1.25 to about 2.
13. (Original) The applicator of claim 1, wherein said barrel has a finger grip.
14. (Original) The applicator of claim 13, wherein said finger grip has at least one gripping structure.
15. (Original) The applicator of claim 14, wherein said at least one gripping structure is circumferentially disposed around said finger grip.
16. (Original) The applicator of claim 14, wherein said at least one gripping structure is selected from the group consisting of one or more abrasive materials, embossments, grooves, high wet coefficient of friction materials, lances, pressure sensitive adhesives, protuberances, slits, treads, and any combinations thereof.
17. (Original) The applicator of claim 14, wherein said at least one gripping structure is formed in a shape selected from the group consisting of arc, circle, concave, cone, convex, diamond, hexagon, line, octagon, oval, pentagon, polygon, rectangle, rib, square, triangle, and any combinations thereof.
18. (Original) The applicator of claim 14, wherein said at least one gripping

structure is raised, depressed, or a combination thereof.

19. (Original) The applicator of claim 1, wherein said plurality of petals is about two petals to about eight petals.

20. (Original) The applicator of claim 19, wherein each adjacent pair of said about two petals to about eight petals is separated by a radial slit.

21. (Original) The applicator of claim 20, wherein said radial slit extends below a base region of said about two petals to about eight petals.

22. (Original) The applicator of claim 21, wherein said base region has at least one circumferential groove.

23. (Original) The applicator of claim 22, wherein said barrel has a maximum outside diameter less than 0.598 inches.

24. (Original) The applicator of claim 23, further comprising a ratio of an extension of said radial slit beyond said groove to said maximum outside diameter of said barrel of about 0.002 to about 1.

25. (Original) The applicator of claim 23, further comprising a ratio of a width of said radial slit at said groove to said maximum outside diameter of said barrel of

about 0.002 to about 0.25.

26. (Original) The applicator of claim 22, wherein said barrel has a maximum outside diameter of greater than or equal to 0.598 inches to less than 0.658 inches.

27. (Original) The applicator of claim 26, further comprising a ratio of an extension of said radial slit beyond said groove to said maximum outside diameter of said barrel of about 0.002 to about 0.669.

28. (Original) The applicator of claim 26, further comprising a ratio of a width of said radial slit at said groove to said maximum outside diameter of said barrel of about 0.002 to about 0.167.

29. (Original) The applicator of claim 22, wherein said barrel has a maximum outside diameter greater than or equal to 0.658 inches.

30. (Original) The applicator of claim 29, further comprising a ratio of an extension of said radial slit beyond said groove to said maximum outside diameter of said barrel of about 0.001 to about 0.608.

31. (Original) The applicator of claim 29, further comprising a ratio of a width of said radial slit at said groove to said maximum outside diameter of said barrel of about 0.001 to about 0.152.

32. (Original) The applicator of claim 19, wherein said about 2 to about 8 petals have a weakened base region formed by bending said petals back and forth, thereby breaking one or more bonds.

33. (Original) The applicator of claim 1, wherein said barrel is formed from a material selected from the group consisting of biopolymer, cardboard, cardboard laminate, heat shrink plastic, paper, paper slurry, paper laminate, plastic, plastic tubing, pulp slurry, pulp-molded paper, and any combinations thereof.

34. (Original) The applicator of claim 1, wherein said barrel is formed from cardboard.

35. (Original) The applicator of claim 1, wherein said barrel has a surface that is coated with a material selected from the group consisting of cellophane, cellulose, epoxy, lacquer, nitrocellulose, nylon, plastic, polyester, polylactide, polyolefin, polyvinyl alcohol, polyvinyl chloride, silicone, wax, and any combinations thereof.

36. (Original) The applicator of claim 35, wherein said surface is selected from the group consisting of an outer surface, an inner surface, and any combination thereof.

37. (Previously presented) A tampon applicator comprising:

a barrel with a tapered insertion tip,

wherein said tapered insertion tip has a taper ratio represented by a ratio of a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of one or more petals of greater than 1 to about 8, and

wherein said barrel is formed from a material selected from the group consisting of cardboard, cardboard laminate, paper, paper laminate, pulp slurry, paper slurry, biopolymer, pulp-molded paper, and any combinations thereof.

38. (Original) The applicator of claim 37, wherein said taper ratio is about 1.5 to about 5.

39. (Original) The applicator of claim 37, wherein said taper ratio is about 1.4 to about 2.3.

40. (Original) The applicator of claim 37, wherein said taper ratio is about 1.45 to about 1.75.

41. (Original) The applicator of claim 37, wherein said one or more petals each have a thickness of about 0.008 inches to about 0.018 inches.

42. (Original) The applicator of claim 37, wherein said one or more petals each have a thickness of about 0.009 inches to about 0.013 inches.

43. (Original) The applicator of claim 37, wherein said one or more petals have a substantially uniform thickness.

44. (Original) The applicator of claim 43, wherein said substantially uniform thickness of each of said one or more petals varies no more than about 25% across an entire area of said one or more petals.

45. (Original) The applicator of claim 43, wherein said substantially uniform thickness of each of said one or more petals varies no more than about 10% across an entire area of said one or more petals.

46. (Original) The applicator of claim 43, wherein said substantially uniform thickness of each of said one or more petals varies no more than about 2% across an entire area of said one or more petals.

47. (Original) The applicator of claim 37, wherein said barrel has a barrel taper ratio represented by a ratio of a largest radius of the barrel to a radius of the barrel at a base of the insertion tip of about 1.2 to about 8.

48. (Original) The applicator of claim 47, wherein said barrel taper ratio is

about 1.25 to about 2.

49. (Original) The applicator of claim 37, wherein said barrel has a finger grip.

50. (Original) The applicator of claim 49, wherein said finger grip has at least one gripping structure.

51. (Original) The applicator of claim 50, wherein said at least one gripping structure is circumferentially disposed around said finger grip.

52. (Original) The applicator of claim 50, wherein said at least one gripping structure is selected from the group consisting of one or more abrasive materials, embossments, grooves, high wet coefficient of friction materials, lances, pressure sensitive adhesives, protuberances, slits, treads, and any combinations thereof.

53. (Original) The applicator of claim 50, wherein said at least one gripping structure is formed in a shape selected from the group consisting of arc, circle, concave, cone, convex, diamond, hexagon, line, octagon, oval, pentagon, polygon, rectangle, rib, square, triangle, and any combinations thereof.

54. (Original) The applicator of claim 50, wherein said at least one gripping structure is raised, depressed, or a combination thereof.

55. (Original) The applicator of claim 37, wherein said one or more petals is about two to about eight petals.

56. (Original) The applicator of claim 55, wherein an adjacent pair of said about two to about eight petals is separated by a radial slit.

57. (Original) The applicator of claim 56, wherein said radial slit extends below a base region of said about two to about eight petals.

58. (Original) The applicator of claim 57, wherein said base region has at least one circumferential groove.

59. (Original) The applicator of claim 58, wherein said barrel has a maximum outside diameter less than 0.598 inches.

60. (Original) The applicator of claim 59, further comprising a ratio of an extension of said radial slit beyond said groove to said maximum outside diameter of said barrel of about 0.002 to about 1.

61. (Original) The applicator of claim 59, further comprising a ratio of a width of said radial slit at said groove to said maximum outside diameter of said barrel of about 0.002 to about 0.25.

62. (Original) The applicator of claim 58, wherein said barrel has a maximum outside diameter of greater than or equal to 0.598 inches to less than 0.658 inches.

63. (Original) The applicator of claim 62, further comprising a ratio of an extension of said radial slit beyond said groove to said maximum outside diameter of said barrel of about 0.002 to about 0.669.

64. (Original) The applicator of claim 62, further comprising a ratio of a width of said radial slit at said groove to said maximum outside diameter of said barrel of about 0.002 to about 0.167.

65. (Original) The applicator of claim 58, wherein said barrel has a maximum outside diameter greater than or equal to 0.658 inches.

66. (Original) The applicator of claim 65, further comprising a ratio of an extension of said radial slit beyond said groove to said maximum outside diameter of said barrel of about 0.001 to about 0.608.

67. (Original) The applicator of claim 65, further comprising a ratio of a width of said radial slit at said groove to said maximum outside diameter of said barrel of about 0.001 to about 0.152.

68. (Original) The applicator of claim 37, wherein said one or more petals have a weakened base region formed by bending said petals back and forth, thereby breaking one or more bonds.

69. (Original) The applicator of claim 37, wherein said barrel is formed from cardboard.

70. (Original) The applicator of claim 37, wherein said barrel has a surface that is coated with a material selected from the group consisting of cellophane, cellulose, epoxy, lacquer, nitrocellulose, nylon, plastic, polyester, polylactide, polyolefin, polyvinyl alcohol, polyvinyl chloride, silicone, wax, and any combinations thereof.

71. (Original) The applicator of claim 70, wherein said surface is selected from the group consisting of an outer surface, an inner surface, and any combination thereof.

72. (Original) A tampon applicator comprising a tapered barrel and an insertion tip, wherein said tapered barrel has a taper ratio of about 1.2 to about 8,

wherein the taper ratio is a ratio of a largest radius of said tapered barrel to a radius of said tapered barrel at a base region of said insertion tip.

73. (Original) The applicator of claim 72, wherein said taper ratio is about

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1.25 to about 2.

EVIDENCE APPENDIX

There is no entered evidence submitted herewith.

RELATED PROCEEDINGS APPENDIX

As discussed above, there are no other appeals or interferences known to appellants, appellants' attorney or the owner/assignee of the application (Playtex Products, Inc.), which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. Thus, no copies of decisions rendered by a court or the Board are included herewith.